

AMENDED IN SENATE MAY 22, 2006

AMENDED IN SENATE APRIL 27, 2006

AMENDED IN SENATE APRIL 17, 2006

AMENDED IN SENATE APRIL 6, 2006

SENATE BILL

No. 1593

Introduced by Senators Runner and Lowenthal

(Principal coauthor: Assembly Member Oropeza)

(Coauthor: Assembly Member Benoit)

February 24, 2006

An act *to amend Section 22658 of the Vehicle Code*, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1593, as amended, Runner. Vehicles: removal: private property.

Existing law authorizes ~~a private property~~ *an owner or a person in lawful possession of private property* to have a motor vehicle towed from his or her property, under certain conditions. *Existing law prohibits a person from contracting with, or otherwise engaging the services of, a motor carrier of property, unless that motor carrier holds a valid motor carrier of property permit issued by the Department of Motor Vehicles.*

This bill would ~~declare the intent of the Legislature to examine the law relating to the towing of motor vehicles from private property at the request of the property owner~~ *require the owner or person in lawful possession of private property to verify that the towing company, that will be used to remove a vehicle from the private property, has a valid motor vehicle carrier permit before causing the removal of the vehicle from the property.*

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. It is the intent of the Legislature to examine the~~
2 ~~law relating to the towing of motor vehicles from private~~
3 ~~property at the request of the property owner.~~

4 SECTION 1. Section 22658 of the Vehicle Code is amended
5 to read:

6 22658. (a) Except as provided in Section 22658.2, ~~the an~~
7 owner or a person in lawful possession of ~~any~~ private property,
8 ~~who has verified that the towing company that will be used to~~
9 ~~remove a vehicle from the private property has a valid motor~~
10 ~~vehicle carrier permit issued pursuant to Chapter 2 (commencing~~
11 ~~with Section 34620) of Division 14.85, within one hour of~~
12 notifying, by telephone or, if impractical, by the most expeditious
13 means available, the local traffic law enforcement agency, may
14 cause the removal of a vehicle parked on the property to the
15 nearest public garage under any of the following circumstances:

16 (1) There is displayed, in plain view at all entrances to the
17 property, a sign not less than 17 *inches* by 22 inches in size, with
18 lettering not less than one inch in height, prohibiting public
19 parking and indicating that vehicles will be removed at the
20 owner's expense, and containing the telephone number of the
21 local traffic law enforcement agency. The sign may also indicate
22 that a citation may also be issued for the violation.

23 (2) The vehicle has been issued a notice of parking violation,
24 and 96 hours have elapsed since the issuance of that notice.

25 (3) The vehicle is on private property and lacks an engine,
26 transmission, wheels, tires, doors, windshield, or any other major
27 part or equipment necessary to operate safely on the highways,
28 the owner or person in lawful possession of the private property
29 has notified the local traffic law enforcement agency, and 24
30 hours have elapsed since that notification.

31 (4) The lot or parcel upon which the vehicle is parked is
32 improved with a single-family dwelling.

33 (b) The person causing removal of the vehicle, if the person
34 knows or is able to ascertain from the registration records of the
35 Department of Motor Vehicles the name and address of the

1 registered and legal owner of the vehicle, shall immediately give,
2 or cause to be given, notice in writing to the registered and legal
3 owner of the fact of the removal, the grounds for the removal,
4 and indicate the place to which the vehicle has been removed. If
5 the vehicle is stored in a public garage, a copy of the notice shall
6 be given to the proprietor of the garage. The notice provided for
7 in this section shall include the amount of mileage on the vehicle
8 at the time of removal. If the person does not know and is not
9 able to ascertain the name of the owner or for any other reason is
10 unable to give the notice to the owner as provided in this section,
11 the person causing removal of the vehicle shall comply with the
12 requirements of subdivision (c) of Section 22853 relating to
13 notice in the same manner as applicable to an officer removing a
14 vehicle from private property.

15 (c) This section does not limit or affect any right or remedy
16 which the owner or person in lawful possession of private
17 property may have by virtue of other provisions of law
18 authorizing the removal of a vehicle parked upon private
19 property.

20 (d) The owner of a vehicle removed from private property
21 pursuant to subdivision (a) may recover for any damage to the
22 vehicle resulting from ~~any~~ an intentional or negligent act of ~~any~~
23 a person causing the removal of, or removing, the vehicle.

24 (e) ~~Any~~ An owner or a person in lawful possession of ~~any~~
25 private property, or an “association” pursuant to Section 22658.2,
26 causing the removal of a vehicle parked on that property is liable
27 for double the storage or towing charges whenever there has been
28 a failure to comply with paragraph (1), (2), or (3) of subdivision
29 (a) or to state the grounds for the removal of the vehicle if
30 requested by the legal or registered owner of the vehicle as
31 required by subdivision (f).

32 (f) ~~Any~~ An owner or a person in lawful possession of ~~any~~
33 private property, or an “association” pursuant to Section 22658.2,
34 causing the removal of a vehicle parked on that property shall
35 state the grounds for the removal of the vehicle if requested by
36 the legal or registered owner of that vehicle. ~~Any~~ A towing
37 company that removes a vehicle from private property with the
38 authorization of the property owner or the property owner’s agent
39 shall not be held responsible in any situation relating to the
40 validity of the removal. ~~Any~~ A towing company that removes the

1 vehicle under this section shall be responsible for (1) any damage
2 to the vehicle in the transit and subsequent storage of the vehicle
3 and (2) the removal of a vehicle other than the vehicle specified
4 by the owner or other person in lawful possession of the private
5 property.

6 (g) Possession of ~~any~~ a vehicle under this section shall be
7 deemed to arise when a vehicle is removed from private property
8 and is in transit.

9 (h) A towing company may impose a charge of not more than
10 one-half of the regular towing charge for the towing of a vehicle
11 at the request of the owner of private property or that owner's
12 agent pursuant to this section if the owner of the vehicle or the
13 owner's agent returns to the vehicle before it is removed from the
14 private property. The regular towing charge may only be
15 imposed after the vehicle has been removed from the property
16 and is in transit.

17 (i) (1) A charge for towing or storage, or both, of a vehicle
18 under this section is excessive if the charge is greater than that
19 which would have been charged for towing or storage, or both,
20 made at the request of a law enforcement agency under an
21 agreement between the law enforcement agency and a towing
22 company in the city or county in which is located the private
23 property from which the vehicle was, or was attempted to be,
24 removed.

25 (2) If a vehicle is released within 24 hours from the time the
26 vehicle is brought into the storage facility, regardless of the
27 calendar date, the storage charge shall be for only one day. Not
28 more than one day's storage charge may be required for ~~any~~ a
29 vehicle released the same day that it is stored.

30 (3) If a request to release a vehicle is made and the appropriate
31 fees are tendered and documentation establishing that the person
32 requesting release is entitled to possession of the vehicle, or is
33 the owner's insurance representative, is presented within the
34 initial 24 hours of storage, and the storage facility fails to comply
35 with the request to release the vehicle or is not open for business
36 during normal business hours, then only one day's storage charge
37 may be required to be paid until after the first business day. A
38 business day is ~~any~~ a day in which the lienholder is open for
39 business to the public for at least eight hours. If a request is made
40 more than 24 hours after the vehicle is placed in storage, charges

1 may be imposed on a full calendar day basis for each day, or part
2 thereof, that the vehicle is in storage.

3 (j) ~~Any~~ A person who charges a vehicle owner a towing,
4 service, or storage charge at an excessive rate, as described in
5 subdivision (i), is liable to the vehicle owner for four times the
6 amount charged.

7 (k) Persons operating or in charge of any storage facility
8 where vehicles are stored pursuant to this section shall accept a
9 valid bank credit card or cash for payment of towing and storage
10 by a registered owner or the owner's agent claiming the vehicle.
11 A person operating or in charge of any storage facility who
12 refuses to accept a valid bank credit card is liable to the
13 registered owner of the vehicle for four times the amount of the
14 towing and storage charges, but not to exceed five hundred
15 dollars (\$500). In addition, persons operating or in charge of the
16 storage facility shall have sufficient moneys on the premises of
17 the primary storage facility during normal business hours to
18 accommodate, and make change in, a reasonable monetary
19 transaction.

20 Credit charges for towing and storage services shall comply
21 with Section 1748.1 of the Civil Code. Law enforcement
22 agencies may include the costs of providing for payment by
23 credit when making agreements with towing companies as
24 described in subdivision (i).

25 (l) (1) A towing company shall not remove or commence the
26 removal of a vehicle from private property without first obtaining
27 written authorization from the property owner or lessee, or an
28 employee or agent ~~thereof~~ *of the property owner or lessee*, who
29 shall be present at the time of removal. General authorization to
30 remove or commence removal of a vehicle at the towing
31 company's discretion shall not be delegated to a towing company
32 or its affiliates except in the case of a vehicle unlawfully parked
33 within 15 feet of a fire hydrant or in a fire lane, or in a manner
34 which interferes with any entrance to, or exit from, the private
35 property.

36 (2) If a towing company removes a vehicle without written
37 authorization and that vehicle is unlawfully parked within 15 feet
38 of a fire hydrant or in a fire lane, or in a manner which interferes
39 with ~~any~~ *an* entrance to, or exit from, the private property, the
40 towing company shall take, prior to the removal of that vehicle, a

1 photograph of the vehicle which clearly indicates that parking
2 violation. The towing company shall keep one copy of the
3 photograph taken pursuant to this paragraph, and shall present
4 that photograph to the owner or an agent of the owner, when that
5 person claims the vehicle.

6 (3) ~~Any~~A towing company, or ~~any~~ an affiliate of a towing
7 company, ~~which~~ that removes, or commences removal of, a
8 vehicle from private property without first obtaining written
9 authorization from the property owner or lessee, or an employee
10 or agent ~~thereof of the property owner or lessee~~, who is present at
11 the time of removal or commencement of the removal, except as
12 permitted by paragraph (1), is liable to the owner of the vehicle
13 for four times the amount of the towing and storage charges, in
14 addition to any applicable criminal penalty, for a violation of
15 paragraph (1).

16 (m) (1) It is the intent of the Legislature in the adoption of
17 subdivision (k) to assist vehicle owners or their agents by, among
18 other things, allowing payment by credit cards for towing and
19 storage services, thereby expediting the recovery of towed
20 vehicles and concurrently promoting the safety and welfare of the
21 public.

22 (2) It is the intent of the Legislature in the adoption of
23 subdivision (l) to further the safety of the general public by
24 ensuring that a private property owner or lessee has provided his
25 or her authorization for the removal of a vehicle from his or her
26 property, thereby promoting the safety of those persons involved
27 in ordering the removal of the vehicle as well as those persons
28 removing, towing, and storing the vehicle.